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LICENSE DIVISION  
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FORM AID-LI-MGA45 (2/05)

**MANAGING GENERAL AGENT'S CONTRACT**

**ARTICLE I – PREAMBLE**

(1) The parties to this agreement are:

- (a) \_\_\_\_\_  
(insurer)
- (b) \_\_\_\_\_  
(managing general agent)

(2) The promises and agreements made by the insurer in this managing general agent's contract are made in consideration of the promises and agreements made by the managing general agent. The promises and agreements made by the managing general agent in this managing general agent's contract are made in consideration of the promises and agreements made by the insurer;

(3) This written managing general agent's contract contains the entire agreement of the insurer and the managing general agent;

(4) This managing general agent's contract will not become effective until signed by the insurer and the managing general agent, and is filed with and approved by the Insurance Commissioner of the State of Arkansas.

**ARTICLE II – MANDATORY PROVISIONS**

Notwithstanding any provision in this managing general agent's contract or any other written, oral or parol agreement to the contrary, the following provisions are binding upon the insurer and the managing general agent:

(1) The insurer may terminate the contract for cause upon written notice to the managing general agent. The insurer may suspend the underwriting authority of the managing general agent during the pendency of any dispute regarding the cause for termination. Nothing in this section is intended to relieve the managing general agent or insurer of any other contractual obligation;

(2) The managing general agent will render accounts to the insurer detailing all transactions and remit all funds due under the contract to the insurer on not less than a monthly basis;

(3) All funds collected for the account of an insurer will be held by the managing general agent in a fiduciary capacity in a segregated account in a bank which is a member of the Federal Reserve System. This account shall be used for all payments on behalf of the insurer and for no other purpose. The managing general agent may retain no more than three (3) months, estimated claims payments and allocated loss adjustment expenses;

(4) Separate records of business written by the managing general agent shall be maintained. The insurer shall have access and right to copy all accounts and records related to its business in a form usable by the insurer, and the Insurance Commissioner of the State of Arkansas shall have access to all books, bank accounts and records of the managing general agent in a form usable to the Commissioner. Such records shall be retained for a minimum of five (5) years following the transactions to which the records relate. The insurer shall periodically, and not less often than semiannually, have access to conduct an on-site review of the underwriting and claims processing operations of the managing general agent;

- (5) This contract may not be assigned in whole or part by the managing general agent;
- (6) Appropriate underwriting guidelines are established in Article III of this managing general agent's agreement;
- (7) The insurer shall retain the right to cancel or not renew any policy of insurance subject to the applicable laws and regulations concerning the cancellation and nonrenewal of insurance policies;
- (8) This managing general agent's contract (does/does not) permit the managing general agent to settle claims on behalf of the insurer. If this managing general agent's contract permits the managing general agent to settle claims on behalf of the insurer:
  - (a) All claims must be reported to the insurer in a timely manner;
  - (b) A copy of the claim file will be sent to the insurer at its request or as soon as it becomes known that the claim:
    - (i) Has the potential to exceed \$25,000 or exceeds the limit set by the insurer, (\$ \_\_\_\_\_), whichever is less;
    - (ii) Involves a coverage dispute;
    - (iii) May exceed the managing general agent's claims settlement authority;
    - (iv) Is open for more than six (6) months; or
    - (v) Is closed by payment of \$25,000 or the amount set by the insurer, whichever is less;
  - (c) All claim files will be the joint property of the insurer and managing general agent. However, upon an order of liquidation of the insurer such files shall become the sole property of the insurer or its estate, but the managing general agent shall have reasonable access to and the right to copy the files on a timely basis;
  - (d) Any settlement authority granted to the managing general agent may be terminated for cause upon the insurer's written notice to the managing general agent or upon the termination of the contract. The insurer may suspend the settlement authority during the pendency of the dispute regarding the cause of termination. Nothing in this paragraph is intended to relieve the managing general agent or insurer or any other contractual obligation; and
  - (e) Article III contains other provisions relating to the settlement of claims by the managing general agent on behalf of the insurer.
- (9) Electronic claims files (are/are not) in existence. If such files are in existence, Article III of this managing general agent's contract will contain provisions which govern the timely transmission of the data by the managing general agent to the insurer.
- (10) This contract (does/does not) provide for a sharing of interim profits by the managing general agent. If this contract does provide for such sharing, then:
  - (a) Provisions for such sharing are described in Article III of this managing general agent's contract; and
  - (b) If the managing general agent has the authority to determine the amount of the interim profits by establishing loss reserves or controlling claim payments, or in any other manner, interim profits will not be paid to the managing general agent until one year after they are earned for property insurance business and five years after they are earned on the casualty business and not until the profits have been verified pursuant to the Arkansas Managing General Agents Act.
- (11) The managing general agent shall not:

(a) Bind reinsurance or retrocessions on behalf of the insurer. The managing general agent however (may/may not) bind facultative reinsurance contracts pursuant to obligatory facultative agreements. If the managing general agent is permitted to bind facultative reinsurance contracts, this managing general agent's contract will contain in Article III reinsurance underwriting guidelines, including, for both reinsurance assumed and ceded, a list of reinsurers with whom such automatic agreement are in effect, the coverages and amounts or percentages that may be reinsured and commission schedules;

(b) Commit the insurer to participate in insurance or reinsurance syndicates;

(c) Appoint any agent without assuring that the agent is lawfully licensed to transact the type of insurance for which he is appointed or for which appointment is requested;

(d) Without prior approval of the insurer, pay or commit the insurer to pay a claim over a specified amount, net of reinsurance, which shall not exceed one percent of the insurer's policyholder's surplus as of December 31 of the last completed calendar year;

(e) Collect any payment from a reinsurer, or commit the insurer to any claim settlement with a reinsurer, without prior approval of the insurer. If prior approval is give, a report must be promptly forwarded to the insurer;

(f) Permit its subagent to serve on the insurer's board of directors;

(g) Jointly employ an individual who is employed with the insurer; or

(h) Appoint a managing general subagent.

### ARTICLE III – OPTIONAL PROVISIONS

(1) The following are underwriting guidelines for the managing general agent [see Article II(6)]:

(a) The maximum annual premium volume: \_\_\_\_\_

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(b) The basis of the rates to be charged: \_\_\_\_\_

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(c) The types of risks which may be written: \_\_\_\_\_

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(d) Maximum limits of liability: \_\_\_\_\_

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(e) Applicable exclusions: \_\_\_\_\_

(f) Territorial limitations: \_\_\_\_\_

(g) Policy cancellation provisions: \_\_\_\_\_

(h) The maximum policy period: \_\_\_\_\_

(i) Other underwriting guidelines: \_\_\_\_\_

(2) The following provisions govern the settlement of claims by the managing general agent on behalf of the insurer [see Article II (8)(e)]:

(3) The following provisions govern the timely transmission of data in electronic claims files by the managing general agent to the insurer [see Article II (9):

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(4) The following provisions govern the sharing of interim profits by the managing general agent [see Article II (10)]:

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(5) The following provisions govern reinsurance underwriting guidelines, for both reinsurance assumed and ceded, for the binding by the managing general agent of facultative reinsurance contracts [see Article II (b)]:

(a) List of reinsurers with which obligatory facultative reinsurance agreements are in effect:

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(b) The coverages and amounts of percentages that may be reinsured:

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(c) Commission schedules:

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(d) Other provisions relating to underwriting guidelines for facultative reinsurance:

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#### ARTICLE IV – OTHER PROVISIONS

(1) The provisions of this Article IV are in addition to and not in lieu of the provisions of Articles I, II and III. The provisions of Articles I, II and III shall be construed wherever possible as not in conflict and not in place of this Article IV, but as minimum requirements in addition to this Article IV. Only in the event of irreconcilable conflict, the provisions of Articles I, II and III will prevail over the provisions of this Article IV.

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